

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

Jose Cuellar,

Civil 10-2041 SRN/FLN

Petitioner,

v.

O R D E R

Scott P. Fisher, Warden,

Respondent.

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Based upon the Report and Recommendation by United States Magistrate Judge Franklin L. Noel dated February 24, 2011, all the files and records, and no objections having been filed to said Report and Recommendation,

**IT IS HEREBY ORDERED** that:

1. Petitioner's petition for a writ of habeas corpus [#1] is DENIED;
2. This action is DISMISSED WITH PREJUDICE; and
3. JUDGMENT BE ENTERED ACCORDINGLY.

Pursuant to 28 U.S.C. §2253 (c), a Certificate of Appealability will not be issued because Petitioner has failed to make a substantial showing of the denial of any constitutional right.

DATED: \_\_ March 29, 2011

s/ Susan Richard Nelson  
SUSAN RICHARD NELSON  
United States District Court Judge